

Application No. 10/627,222  
Amendment dated February 8, 2006  
Reply to Office Action of November 8, 2005

### **REMARKS/ARGUMENTS**

Responsive to the Official Action mailed November 8, 2005, applicants have further amended the claims of their application in an earnest effort to place this case in condition for allowance. Specifically, independent claim 1 has been amended.

In the Action, the Examiner has rejected the pending claims under 35 U.S.C. §103, with reliance upon U.S. Patent No. 5,414,914, to Suzuki et al., in view of U.S. Patent No. 5,240,764, to Haid et al., U.S. Patent No. 5,552,206, to Knoke et al., U.S. Patent No. 5,822,833, to James et al., and U.S. Patent No. 5,670,234 to Suehr et al. However, applicants respectfully maintain that their novel process is clearly not taught or suggested by the collective teachings of the cited prior art references, and accordingly, the Examiner's rejection is respectfully traversed.

Applicants note with appreciation the Examiner's careful explanation of his analysis of the presently pending claims. In this regard the Examiner has noted at pages 5 and 6 of the Action, that the pending claims previously did not include the use of a resin binder. By this response, applicants have revised their pending claims to specify that the fibrous matrix from which their present durable nonwoven fabric is formed is *devoid of chemical binder*. As discussed at page 2 of the Specification, use of chemical binders undesirably increases the complexity of fabric manufacturing, adding cost to fabric thus produced. Specialized equipment to mix and apply the binder formulation is required, as well as suitable equipment to effectively dry/cure any binder composition.

Just as significantly, addition of binder compositions adversely affects a fabric construct, typically undesirably *stiffening* the fabric, detracting from desired softness, suppleness, and

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drapeability. By avoiding reliance on such chemical binder formulations, applicants' unique fabric construct desirably avoids the drawbacks associated with use of such compositions.

By this Action, the Examiner has newly relied upon the Suehr et al. reference. In the Action, the Examiner has responded to applicants' comments regarding shifting of an applied principal reference by stating that it is in response to "protracted *incremental* changes in the recited scope of the claimed invention". This appears to suggest that for every claim limitation that applicants might add in an effort to advance prosecution, they can expect yet a further prior art reference to be applied, just as the Suehr et al. patent has been cited in connection with applicants' revision to their pending claims specifying "jet-dyeing" of their novel fabric construct.

Applicants refer to M.P.E.P. Section 2145, which clearly admonishes that "hindsight reconstruction" *is not proper* if it "include[s] knowledge gleaned only from applicants' disclosure" (citation omitted).

In this context, applicants must respectfully submit that the very essence of their novel process *can only be gleaned from their disclosure*, since there simply is no teaching or suggestion of their process from the prior art references. As previously discussed, applicants' novel process contemplates highly efficient manufacture of durable, three-dimensionally imaged nonwoven fabrics, which exhibit sufficient durability to withstand jet dyeing, without resort to chemical binders. The principal Suzuki et al. patent clearly has no teaching or suggestion of this unique process, and in fact, is so far removed from applicants' claimed process as to require modification by four additional prior art references to provide a basis of rejection under 35 U.S.C. §103.

In the Action, the Examiner has stated that 35 U.S.C. §103 "does not say anything about 'cost' of production, but rather only a showing of reasonable expectation of successes required". Applicants must respectfully maintain that this is contrary to the requirements of M.P.E.P. 2143.01, which specifically admonishes that "the proposed modification cannot render the prior art unsatisfactory for its intended purpose". Clearly, the M.P.E.P. contemplates that the teachings of references *should not be taken out of context*, and that to do so is inconsistent with the requirements of 35 U.S.C. §103.

In the Action, the Examiner relies upon the newly-cited Suehr et al. patent for its teaching that "a jet dyeing process is a standard dyeing process". However, the referenced discussion on Suehr et al. is *contrary to* applicants' claimed process, and one skilled in the art would not further modify the teachings of the remaining cited references, in view of Suehr et al., to arrive at applicants' novel method as claimed.

At column 4, line 22 *et seq.* of the Suehr et al. reference, preparation of comparative fabric samples is discussed, wherein one such comparative example is "passed through a jet dyeing process to enhance properties". As noted by the Examiner, Suehr et al. goes on to state that the process used is a "standard dyeing process" used "*to soften the fabric*". In other words, this reference in Suehr et al. to jet dyeing contemplates use of the jet dyeing process to soften a fabric. Clearly, such a teaching is contrary to the present invention, wherein applicants' invention contemplates manufacture of a fabric which is *sufficiently durable as to withstand jet dyeing*.

Again, applicants respectfully refer to M.P.E.P. Section 2143.03, which specifically requires that "the prior art must suggest the desirability of the claimed invention". Once again,

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applicants must respectfully maintain that this cited reference, like all of the other cited references, does not teach or suggest applicants' novel process, the formation of a three-dimensional imaged nonwoven fabric exhibiting sufficient durability, without resort to chemical binders, as to withstand jet-dyeing.

Applicants specifically note that what Suehr et al. *does contemplate* is fabrics formed with a 20% acrylic binder pick-up, with subsequent drying on drying cans. Additionally, applicants note that Suehr et al. contemplates making a fabric using meta-physical energies on the order of 4,000 bar at 30 ypm. This would correlate to over 9,000 bar at 66 ypm, a process which applicants believe is not currently commercially possible.

In view of the foregoing, formal allowance of claims 1-4, and 6-9 is believed to be in order and is respectfully solicited. Should the Examiner wish to speak with applicants' attorneys, they may be reached at the number indicated below.

The Commissioner is hereby authorized to charge any additional fees which may be required in connection with this submission to Deposit Account No. 23-0785.

Respectfully submitted,

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Colleen Davison